# Case Answers

## AT: Consequentialisms

### Safety Good

#### Safe climates are key—minorities drop out and are excluded from academic spaces—outweighs on magnitude.

Perry 15 [Andre M. Perry, founding dean of urban education at Davenport University, 11-11-2015, "Campus racism makes minority students likelier to drop out of college. Mizzou students had to act.," Washington Post, <https://www.washingtonpost.com/posteverything/wp/2015/11/11/campus-racism-makes-minority-students-likelier-to-drop-out-of-college/?utm_term=.0cc4b80172df>] AG

Campus racial climate has been linked to academic success. And research has long shown that academic preparedness is only one of many factors that determine why students do or don’t graduate. The psychological attitudes between and among groups, as well as intergroup relations on campuses, influences how well students of color perform and whether they stay on track toward graduation. Graduation rates lag when schools don’t provide an environment that fosters the scholastic pursuits of minority students, particularly black men. Researcher Sylvia Hurtado explains that “Just as a campus that embraces diversity provides substantial positive benefits, a hostile or discriminatory climate has substantial negative consequences.” Her research found that “Students who reported negative or hostile encounters with members of other racial groups scored lower on the majority of outcomes.” A study of students at the University of Washington found that black students there were the only campus group to suffer a clear statistical GPA disadvantage from a nasty campus climate: “Results indicate that campus climate is significantly related to academic achievement of African American students, as represented by GPA, accounting for about 11 percent of the variance.” That means black students facing adverse conditions are likelier to leave college early — and would, presumably, be likelier to stay in what they felt to be a safe space. In “Interactional Diversity and the Role of a Supportive Racial Climate” the University of Maryland’s Leah Kendra Cox found much the same thing: “In unhealthy climates, students — both majority and minority — are less likely to thrive academically or socially.” She found that a supportive racial climate had more impact than any other factor on the strength of diversity on campus. Perhaps not coincidentally, a Gallup survey last month illustrated that students at Historically Black Colleges and Universities, or HBCUs — where the climate, by design, nurtures students of color — were far more likely to “strongly agree that their colleges prepared them for life after graduation (55%) than black graduates of other institutions (29%).”

#### Hate speech decreases minority participation—turns case and guts solvency

Ma ’95 (Ma, Alice; "Campus Hate Speech Codes: Affirmative Action in the Allocation of Speech Rights," California Law Review, Vol. 83, No. 2, 1995)

Charles Lawrence has perhaps best described the silencing effects of hate speech. In arguing that face-to-face racial insults-"fighting words"- can be constitutionally penalized, Lawrence notes that being called a "nigger" is like being slapped in the face. The injury is instantaneous, allowing no time for either reflection on the idea conveyed or responsive speech. He writes, "Assaultive racist speech functions as a preemptive strike. The racial invective is experienced as a blow, not a proffered idea, and once the blow is struck, it is unlikely that dialogue will follow.” Lawrence argues that women and minorities often find themselves speechless in the face of discriminatory insults for a number of reasons. First, the "visceral emotional response to personal attack precludes speech. Fear, rage, shock, and flight all interfere with any reasoned response .... Many victims do not find words of response until well after the assault when the cowardly assaulter has departed." Second, speech is often an inadequate response given the preemptive nature of racial insults. "When one is personally attacked with words that denote one's subhuman status and untouchability, there is little (if anything) that can be said to redress either the emotional or reputational injury."66 Third, "[t]he fighting words doctrine presupposes an encounter between two persons of relatively equal power who have been acculturated to respond to face-to-face insults with violence."''67 In many cases, however, a minority student will be confronted by more than one attacker, and, by dint of sheer numbers, silence is the safer option.68 Lastly, Lawrence reminds us of the effects of "pervasive racial and sexual violence and coercion on individual members of subordinated groups who must learn the survival techniques of suppressing and disguising rage and anger at an early age."

### Defense

#### No impact to the aff—most people think we already have free speech, nothing is going to change

Dwyer 16 (Liz, writes about race, parenting, and social justice for several national publications, “College Students Say Free Speech Has Its Limits,” April 4, 2016, http://www.takepart.com/article/2016/04/04/college-students-free-speech-limits//[LADI](http://www.theladi.org/evidence))

Last fall, the football team at the University of Missouri went on strike to protest slow administrative response to incidents of racial harassment on campus, joining other students in a movement that resulted in the resignation of the school’s president. Although students at the school asserted their right to protest, a viral video of Tim Tai, a student photojournalist, being blocked from documenting what was happening raised concerns over whether free-speech rights on the campus were eroding. “The First Amendment protects your right to be here and mine,” Tai told the protesters gathered around him. “Forget a law. How about humanity and respect?” replied a student. A few minutes later, professor Melissa Click, now fired, could be seen on the video trying to prohibit another student from recording the incident. “Hey, who wants to help me get this reporter out of here?” Click yells to the protesters. According to a Gallup survey of college students, released Monday in collaboration with the Knight Foundation and the Newseum Institute, most undergraduates across the United States believe First Amendment rights are secure. At the same time, nearly half think some restrictions on free speech are justified. “Students do appear to distinguish controversial views from what they see as hate. They believe colleges should be allowed to establish policies restricting language and behavior that are intentionally offensive to certain groups, but not the expression of political views that may upset or offend members of certain groups,” wrote the authors of a report accompanying the survey. The survey polled a nationally representative sample of 3,000 college students ages 18 to 24 about their attitudes toward the First Amendment. While 78 percent said that “colleges should expose students to all types of speech and viewpoints,” the report’s authors note that 69 percent believe policies against slurs and intentionally offensive language are needed.

#### Circumvention guts solvency—speech codes are now called “anti-harassment policies”

Hardiman ’15 (Kate, prof @ Notre Dam, ‘Welcome to college – now be quiet!’ Many campuses maintain militant speech codes,” The College Fix, August 2015)

A majority of **universities across the nation continue to infringe upon their students’ First Amendment right to free speech**, according to a 2015 survey of campus policies published by the Foundation for Individual Rights in Education. Once bastions of free expression and open debate, modern American universities prohibit speech in a variety of ways to protect students from ideas some deem “offensive,” “harmful” or “upsetting.” According to the foundation’s report, “Spotlight on Speech Codes 2015: The State of Free Speech on Our Nation’s Campuses,” **nearly 55 percent of the 437 universities analyzed have “policies that clearly and substantially prohibit protected speech,” earning the group’s “Red Light” designation**. FIRE conducts a yearly free speech review of the nation’s universities to assess their adherence to the First Amendment, and this year’s stats showed nominal improvement over previous ones. “Last year, that figure stood at 58.6 percent; **this is the seventh year in a row that** the percentage of schools maintaining such policies has declined,” the group noted. But don’t pop the champagne cork just yet. The foundation’s president, Greg Lukianoff, co-penned a cover story for The Atlantic this month which warns the tide has turned so far that now some students want protection from other students’ and professors’ “scary ideas.” “**A movement is arising, undirected and driven largely by students, to scrub campuses clean of words, ideas, and subjects that might cause discomfort or give offense,” he wrote**. “This new climate is slowly being institutionalized, and is affecting what can be said in the classroom, even as a basis for discussion.” **While the percentage of higher education institutions with restrictive speech codes appears to have declined over the past six years, FIRE reports that many speech codes may simply have been rebranded as** “anti-harassment policies” **following pressure from the Department of Education**’s **Office for Civil Rights**. Universities even hold faculty training sessions to familiarize them with new anti-harassment policies, such as the University of California’s microaggression training seminars for faculty leaders. In these sessions, professors were taught that saying “America is the land of opportunity” is an offensive “microaggression.”

### AT: Alt-Right

#### The alt-right exploits free speech to recruit millennials—administrative intervention is key.

Burley and Ross 16 [Shane Burley and Alexander Reid Ross, Shane Burley is a journalist and filmmaker and Alexander Reid Ross is a journalist and researcher, 10-6-2016, "How the Alt Right is trying to create a ‘safe space’ for racism on college campuses," Waging Nonviolence, <http://wagingnonviolence.org/feature/alt-right-safe-space-racism-college-campuses/>] AG

For decades, both the institutional and radical left in the United States has relied on campus activism as a key part of its organizing base. From the antiwar movement of the 1960s to the development of feminist and queer politics to the growing youth labor and Black Lives Matter movement, colleges have been a center for political encounters and mobilizations. The radicalization of students has often leaned to the left because the left’s challenges to systems of power seem like a perfect fit for people expanding their understanding of the world. Amid major shifts in U.S. politics, a space has opened for revolutionary right-wing politics that have not traditionally been accessible to those outside of the most extreme ranks of the white nationalist movement. Today, the Alt Right is repackaging many of the ideas normally associated with neo-Nazis and KKK members into a new, more middle-class culture by using the strategies and language traditionally associated with the left. This means a heavy focus on argumentation and academic legitimacy, as well as targeting campus locations (and millennials) for recruitment. Until Hillary Clinton’s August 21 speech, most people had never heard of the Alt Right. However, it is a movement that has been growing for almost a decade in backroom conferences and racially-charged blogs. It is a kind of cultural fascism, one birthed out of the post-war fascist movements of Europe and given character by a culture of Twitter trolls and populist American anger. Yet, when it appears on campus, the Alt Right’s recruiting is hardly different from the Klan’s attempts to openly recruit members by leaving bags of leaflets and candy at people’s doorsteps. While the Alt Right Safe Space was put together as a joint effort with several nationalist organizations, Identity Europa emphasizes focusing on the youth most of all. The name and branding of Identity Europa are new, but the organization was started years ago as the National Youth Front. Nathan Damigo was an Iraq war veteran going to school at the University of California at Stanislaus when he took over the organization, shifting its ideological orientation from “civic nationalism” to “race realism,” the notion that whites have higher average IQ’s and a smaller propensity for crime than blacks. While Damigo notes that they have a “don’t ask, don’t tell” policy when it comes to gay members, he said that bi-racial and transgendered people would be turned away. For Damigo and others who trade in white nationalist talking points like “race realism,” the differences between races are significant. “Ethnic and racial or religious diversity can actually wreak havoc on a social system, and cause tons of problems,” Damigo said. “I do believe that there are differences between human populations … [T]he distribution of genes that affect behavior and intelligence are already known to not be equally distributed between all populations.” Identity Europa then represents a sort of “fraternal organization” where “European-descended” people can meet and network, working their way towards a kind of campus activism that challenges discourse and educational plans embedded with multiculturalism and egalitarianism. Such organizations have a long history on the right, stretching back to the 19th century fencing clubs and fraternities that popularized the pan-German ideas of Georg Schönerer — an immediate influence on Nazism. As organizers, however, Identity Europa do not follow the standard playbook for campus activism, which usually involves breaking broad political ideas into organized demands with reachable goals. Instead, they simply want to cultivate a subculture whose constituents will intervene in public discourse, thereby seeding their well-rehearsed talking points about racial inequality, white sovereignty and the return to heteronormative social roles. While Damigo brags about the growth of Identity Europa, it likely does not have membership beyond a few dozen people on campuses around the country at this point. However, there are reports of Identity Europa posters appearing at different places around the country almost weekly. Outreach to millennials Through its brand of social interruption, Identity Europa intends to foment a revolutionary right-wing culture — precisely the goal shared by Richard Spencer and his National Policy Institute. Spencer has been in right-wing politics for years, first joining as an assistant editor at the American Conservative after an article he published on the Duke Lacrosse sexual assault scandal made him a minor star. He later went to the controversial Taki’s Magazine, known for giving a voice to the shrinking paleoconservative movement and staffing dissident voices from the right who are regularly accused of racism. As he further cemented himself in this “dissident right” world, he developed the term “Alternative Right” to indicate the different strands that he saw uniting against multiculturalism, equality and American democracy. It was in this climate that Spencer founded the website Alternative Right, giving voice to a growing white nationalist movement that built on fascist intellectual traditions in Western Europe and challenged the right-wing connection to the American conservative movement. He eventually went on to take over the white nationalist think-tank, the National Policy Institute, or NPI, originally founded by William Regnery, using money inherited from the conservative publishing house, Regnery Publishing. The organization was meant to center on Samuel Francis, a former columnist with the Washington Times who was let go as he shifted further into white nationalism and associated with racialist organizations like American Renaissance and the Council of Conservative Citizens. Spencer took over the organization after Francis’s death, molding it into the intellectual core of the growing Alt Right movement. Spencer’s goal has always been the creation of a “meta-political” movement rather than one founded on contemporary political wedge issues. He hopes to draw together ideas like “white identitarianism” — a term used to brand the movement as being about European heritage — and the eugenics-invoking “human biodiversity.” Both are terms fostered by the so-called “European New Right” and its leading ideologues. What immediately distinguished Spencer’s role in the white nationalist movement from the older generation was his explicit focus on millennial outreach. For instance, his expensive NPI conferences are dramatically discounted for those under 30, and his new Radix Journal is marketed directly to an Internet culture of disaffected and angry white youths. He was an early proponent of podcasts as a main voice of the movement, a move that has given the Alt Right its conversational tone and made its ideas more accessible. With Damigo, Spencer developed the Alt Right Safe Space idea to exploit the projection of free speech on college campuses, despite the movement’s general rejection of human rights. “I think it’s symbolic as a way of saying, ‘we’re here,’” Spencer explained. Identity Europa is discussing doing a mini-tour with Spencer in the fall to East Coast universities, though he would prefer to be invited into an auditorium rather than the front quad. This may be unlikely given the notoriety he has gained, as well as the fact that many of the racial ideas he propounds are considered abhorrent by today’s standards. “It is very hard to find a student who will rent an auditorium or a classroom,” Spencer pointed out. “You might get shut down by the administration, but there are ways of doing it so that you can get away with it. The only problem with it is that the students will have to take responsibility for it, and students are not willing to do that at this point. And I totally understand.”

### AT: Counter-Speech

#### Hate speech silences important conversations—turns counter-speech solvency.

Goshgarian citing Delgado ’07 (Gary Goshgarian is an English professor at Northeastern University and Richard Delgado is a law professor at the University of Pittsburgh and author of Understanding Words that Wound) WHAT MATTERS IN AMERICA: Reading and Writing about Contemporary Culture, Chapter 4 Do Campus Speech Codes Violate Students’ Rights , Hate Cannot be Tolerated Richard Delgado, 2007, Date Accessed 12/15/16 <http://www.ablongman.com/freshink/pdf/GOSH_029X_ch04.pdf>

Anonymous vandals scrawl hate-filled graffiti outside a Jewish student center. Black students at a law school find unsigned fliers stuffed inside their lockers screaming that they do not belong there. At a third campus, a group of toughs hurls epithets at a young Latino student walking home late at night. In response to a rising tide of such incidents, some colleges have enacted hate-speech codes or applied existing rules against individuals whose conduct interferes with the educational opportunities of others. Federal courts have extended “hostile environment” case law to schools that tolerate a climate of hate for women and students of color. Despite the alarm these measures sometimes elicit, nothing is wrong with them. In each case, the usual and preferred response—“more speech”—is unavailable to the victim. With anonymous hate speech such as the flier or graffiti, the victim cannot talk back, for the hate speaker delivers the message in a cowardly fashion. And talking back to aggressors is rarely an option. Indeed, many hate crimes began just this way: [their] his life. Hate speech is rarely an invitation to a conversation. More like a slap in the face, it reviles and silences. College counselors report that campuses where highly publicized incidents of hate speech have taken place show a decline in minority enrollment as students of color in- stead choose to attend schools where the environment is healthier. A few federal courts have declared overly broad hate-speech codes unconstitutional, as well they should. Nothing is gained by a rule so broad it could be construed as forbidding the discussion of controversial subjects such as evolution or affirmative action. But this is not what most people mean by hate speech, nor are colleges barred from drafting narrow rules that hone in on the conduct they wish to control. And when they do, courts are very likely to find in their favor. Recent Supreme Court rulings striking down laws upholding affirmative action and approving punishment for cross-burning show that the court is not unaware of current trends. Society is becoming more diverse. Reasonable rules

#### More speech isn’t a solution – prejudices are still too deep rooted. The notion that we can just ‘talk things out’ ignores the effectiveness of racist ideology

Tsesis ’10 (ALEXANDER TSESIS\*, prof @ Loyola Chicago Law, Burning Crosses on Campus: University Hate Speech Codes, HeinOnline -- 43 Conn. L. Rev. 619 2010-2011, <https://pdfs.semanticscholar.org/c4c2/a881ffd558d28d2b0d0a738981c7211d85e4.pdf>)

**The notion that counterspeech will adequately combat group hatred and promote civil liberties, and is sufficient to maintain tolerance on campus,** which Nadine Strossen and the ACLU have advanced,276 **has been roundly rejected by the international community**. 277 The U.S. Supreme Court has now endorsed the consensus perspective on free speech policy. **Just as with sexual harassment in the workplace, counterspeech is an inadequate remedy for the direct, intimidating attack of hate speech**.278 **Racism, chauvinism, ethnocentrism, and xenophobia are too deeply embedded in culture to be changed overnight. While public attitudes are being changed, hate speech continues to menace out-groups. Telling a university employee subject to racial or sexual coercion, racial degradation, or ethnic insults to simply respond to antagonists provides victims no legal redress but mere platitudes. Just as responding** to comments in a hostile environment **does not solve the problem of workplace harassment, neither does counterspeech decrease the risk posed by advocacy groups committed to carrying out a campus campaign of group intimidation, exclusion, and discrimination. Expecting students at public universities to simply talk things out and convince those who intimidate them of the fallacy of their threatening words and behaviors fails to provide a procedurally cognizable way of seeking legal redress**. The mantra of more speech is based on libertarian faith that **the world community discounted after it understood the effectiveness of antisemitic Nazi propaganda.**2 79 **It also elevates harassment and intimidation to an equal plane with dialogue**. To the contrary, the former is a means of disengagement with its reviled object, while the latter is a form of mutual engagement between the interlocutors.

### AT: Protests

#### The 1AC mistakes action for activism—their protests are a display of collective powerlessness that panders to the converted but refuses to make specific demands of the power elite.

Doss 15 [(J. Pharoah Doss, black activist blogger and writer—graduate of Geneva College. His writing has appeared in The New Pittsburgh Courier, The Commonline Joural, Gutter Eloquence Magazine, The Shepherd, and Commonline/The E Journal.) “Protest conveys nothing without a demand” [January 28, 2015](http://newpittsburghcourieronline.com/2015/01/28/) http://newpittsburghcourieronline.com/2015/01/28/protest-conveys-nothing-without-a-demand/]//LADI

Frederick Douglass said, “Power concedes nothing without a demand.” Douglass’ demand was specific, the abolishment of slavery. The movement to end slavery even named themselves after their demand. They were called abolitionist. What are the specific demands of modern protesters? I remember during the Bush administration I asked an anti-war demonstrator, “Why are you protesting the war?” He said, “Because the president lied.” During the occupy Wall Street movement I met a participant. I asked the young lady, “What exactly are you protesting?” She said, “Corporate greed.” After a white police officer was not indicted by a grand jury for killing an unarmed black man in Ferguson, Missouri there was a rally in my home town of Pittsburgh. The protesters carried signs that read: Black Lives Matter and People of Color Deserve Equality. The one sign that actually stated a demand said: Stop Racist Police Terror. What are these modern protesters asking power to abolish? More importantly does the power being protested have the power to abolish or change the circumstances? Lying and greed are subjective matters of morality. Congressional staffers and elected officials assembled on the capital steps with their hands up. Their reason was to show solidarity with those protesting death caused by the police. But the only thing hands up can symbolize from elected officials and their staff is that they’re powerless to legislate morality. The signs held by those protesting the grand jury decision made basic statements no civilized person would oppose. Of course black lives matter, of course people of color deserve equality, and who would not oppose the concept of racist police terror? But stopping racist … fill in the blank is not a demand that can be rectified by those in power. Power has limits. Racism is a belief in superiority. It can be held by any race. Holding this belief is a problem for the holder alone. It becomes a social problem when the holder puts this belief into practice and discriminates against specific groups. But the government has already legislated against discrimination. So what is the purpose of modern protest? According to the editorial board of The Gazette, Western’s Daily Student Newspaper, the purpose of protest … in all of its various forms, has the same goal -- To create awareness of an issue. Really? I don’t think Douglass and the abolitionist sought to create awareness of the institution of slavery. Protest is defined by Dictionary.com as: An expression or declaration of objection, disapproval, or dissent, often in opposition to something a person is powerless to prevent or avoid. When Trayvon Martin, a black teen, was shot and killed by a Hispanic neighborhood watch volunteer in Florida the police did not arrest the volunteer. People protested across the country. But they weren't raising awarness of neighborhood watch violence or racial profiling. They demanded the arrest of the shooter. As demonstration grew, the demand grew, and power conceded. The shooter was arrested and tried for second degree murder. Too often modern protests generalize grievances government can not legislate and corporate policy can not regulate. They mistake activity for activism. They painfully demonstrate a collective powerlessness that the powerful are fully aware of without a public display. And if Frederick Douglass could address modern protesters he might say, “Protest conveys nothing to power without a specific demand.”

#### Protests fail and this directly answers their internal link of just having “more” people in public colleges engaging in dialogue

Rosman 17 [(Artur, writer) “Why Are Protest Movements (Like the Women’s March) Ineffective?” January 24, 2017, http://www.patheos.com/blogs/cosmostheinlost/2017/01/24/what-makes-all-protest-movements-so-ineffective/]//LADI

**Protest movements frequently use the slogan of “Solidarity.” Solidarity is measured the** quantity of people **attending the marches**, rather than by the quality of their interactions. This choice of words cannot but remind me of the Polish context of the word. I once even translated a piece explaining why Solidarity collapsed so quickly for Thinking in Values (“Solidarity as Church” by Dariusz Karlowicz). **I suspect that the Women’s March will have the same short-term effect as the Occupy Movement, the Arab Spring, Femen, the Greenpeace protests, Global Warming resistances, the Pro-Life Movement, and any number of such movements that have had their moment in the limelight only to fall into irrelevancy in ever-shorter cycles**. Almost by design, **success spells the end of these** single-issue movements**; the same goes for lack thereof**. I include the Polish Solidarity movement in this group, along with many other Eastern European opposition movements, which have totally disappeared without too many Western commentators ever really noticing it. I still get people who come up to me and say “Solidarity” and expect me to jump for joy, or those who say Walesa is a hypocrite as if that’s some sort of news. If protests are so ineffective, then why is it that protest movements are so popular? Here’s what Alasdair MacIntyre says in his widely-discussed After Virtue: It is easy also to understand why protest becomes a distinctive moral feature of the modern age and why indignation is a predominant modern emotion. ‘To protest’ and its Latin predecessors and French cognates are originally as often or more often positive as negative; to protest was once to bear witness to something and only as consequence of that allegiance to bear witness against something else. He continues in the same book (part of my TOP11 critiques of modernity booklist) to go on and explain why these movements are so ineffective: But protest is now almost entirely that negative phenomenon which characteristically occurs as a reaction to the alleged invasion of someone’s rights in the name of someone else’s utility. The self-assertive shrillness of protest arises because the facts of incommensurability ensure that protestors can never win an argument; the indignant self-righteousness of protest arises because the facts of incommensurability ensure equally that the protestors can never lose an argument either. Hence the utterance of protest is characteristically addressed to those who already share the protestors’ premise. The effects of incommensurability ensure that protestors rarely have anyone else to talk to but themselves. This is not to say that protest cannot be effective; it is to say that it cannot be rationally effective and that its dominant modes of expression give evidence of a certain perhaps unconscious awareness of this. I should add that they tend to be minimally effective because they are not rationally effective. Since the protesters tend to talk to themselves about either nebulous notions unrelated to any concrete political agenda, or, about a single cause divorced from a program that rationally embraces dialogue across a series of interconnected issues.

### AT: Reverse Enforcement

#### Empirics disprove reverse enforcement.

Delgado and Yun ’94 (Richard Delgado, Charles Inglis Thomson Professor of Law, University of Colorado. J.D. 1974, University of California, Berkeley. Richard H. Yun, member of the Colorado Bar. J.D. 1993, University of Colorado. “Pressure Valves and Bloodied Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulation,” California Law Review Vol. 8 Issue 4 Article 5, <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1712&context=californialawreview>) OS

But the empirical evidence does not suggest that this is the pattern, much less the rule. Police and FBI reports show that hate crimes are committed much more frequently by whites against blacks than the reverse. 63 Statistics compiled by the National Institute Against Violence and Prejudice confirm what the police reports show, that a large number of blacks and other minorities are victimized by racist acts on campus each year.' Moreover, the distribution of enforcement seems to be consistent with commission of the offense. Although an occasional minority group member may be charged with a hate crime or with violating a campus hate speech code, these prosecutions seem rare. 6 5 Racism, of course, is not a one-way street; some minorities have harassed and badgered whites. Still, the reverse-enforcement objection seems to have little validity in the United States. A recent study of the international aspects of hate speech regulation showed that in repressive societies, such as South Africa and the former Soviet Union, laws against hate speech have indeed been deployed to stifle dissenters and members of minority groups.6 6 Yet, this has not happened in more progressive countries.67 The likelihood that officials in the United States would turn hate speech laws into weapons against minorities seems remote.

## AT: Kant

### TL

#### [1] Turn—hate speech is an intrinsic harm, so we ought to restrict it.

Horne 16 (Solveig, Minister of Children and Equality in Norway, “Hate Speech — A Threat to Freedom of Speech,” 03/08/2016, <http://www.huffingtonpost.com/solveig-horne/hate-speech--a-threat-to_b_9406596.html> //[LADI](http://www.theladi.org/evidence))

Hate speech in the public sphere takes place online and offline, and affects young girls and boys, women and men. We also see hate speech attacking vulnerable groups like people with disabilities, LGBT-persons and other minority groups. Social media and the Internet have opened up for many new arenas for exchanging opinions. Freedom of speech is an absolute value in any democracy, both for the public and for the media. At the same time, opinions and debates challenge us as hate speech are spread widely and frequently on new platforms for publishing. Hate speech may cause fear and can be the reason why people withdraw from the public debate. The result being that important voices that should be heard in the public debate are silenced. We all benefit if we foster an environment where everybody is able to express their opinions without experiencing hate speech. In this matter we all have a responsibility. I am especially concerned about women and girls being silenced. Attempts to silence women in the public debate through hate speech, are an attack on women’s human rights. No one should be silenced or subjected to threats when expressing themselves in public. Women are under-represented in the media. In order to get a balanced public debate it is important that many voices are heard. We must encourage women and girls to be equal participants with men. Hate speech prevents women from making their voices heard. I also call upon the media to take responsibility in this matter. In some cases the media may provide a platform for hate speech. At the same time, I would like to stress that a liberal democracy like Norway strongly supports freedom of speech as a fundamental right. The Norwegian government takes hate speech seriously. In November, prime minister Erna Solberg and I launched a political declaration against hate speech on the behalf of the Norwegian government. Anyone can sign the declaration online and take a stand against hate speech. Politicians, representatives of labour unions and organizations are among those who have signed and supported the declaration. This year the Government will launch a strategy against hate speech. In this connection I have organised several meetings involving organizations and individuals to round table discussions on hate speech, and and received a lot of useful input for our strategy. One of the things I heard about is how destructive hate speech can be for women and girls who participate in the public debate. Some are ridiculed, subjected to sexually offensive language and even threatened with rape and violence. This underlines the importance of combating hate speech. We cannot afford that women are silenced in the public debate, because of their gender. We need arenas for dialogue, tolerance and awareness of the consequences of hate speech. It is important that we discuss this issue with our own children and in schools. We adults have a great responsibility. We need to think about how we express ourselves when children are present. What we say in our family settings have consequences for how our children behave against other people - online and offline. In order to combat hate speech we also need knowledge. I have initiated a research that will look into attitudes towards Jews and how minorities look at other minorities. In addition, the University of Oslo has established a centre for research on right-winged extremism. One of the centre`s mandate is to look into hate speech. The police plays a vital role in the fight against hate speech. Some expressions of opinions are forbidden by law. The new Norwegian General Civil Penal Code’s section 185 protects against serious hate speech which wilfully or through gross negligence is made publicly. The Norwegian police forces has established a net patrol that are working on this issue. Additionally they have strengthen their efforts against hate crime. Hate speech may be directed against people on the basis of ethnicity, religion, disability or sexual orientation. Hate speech can have serious consequences for individuals, groups and the whole society. It is important to take a stand and show that this cannot be tolerated. Politicians, organizations and other actors in the public debate must show responsibility and actively work against hate speech.

#### Outweighs—we can coerce people to not punch people since punches are violent. This is the same—it’s intrinsic and not a question of consequences.

#### [2] Omnilateral will hijack:

#### **Their framework requires the existence of the general will—rights in the state of nature are provisional, and disputes could only be resolved through unilateral coercion. That means the state is legitimate in coercively enforcing rights claims.**

Korsgaard ’08 (Christine, “Taking the Law into Our Own Hands: Kant on the Right to Revolution,” in The Constitution of Agency: Essays on Practical Reason and Moral Psychology) OS bracketed for gender

Kant also believes that there is a sense in which we have rights in the state of nature. We have a natural right to our freedom (MPJ 6:237), and, Kant thinks, the Universal Principle of Justice allows us to claim rights in land and, more generally, in external objects, in property. Kant argues that it would be inconsistent with freedom to deny the possibility of property rights, on the grounds that unless we can claim rights to objects, those objects cannot be used (MPJ 6:246).7 This would be a restriction on freedom not based in freedom itself, which we should therefore reject, and this leads us to postulate that objects may be owned. But unlike Locke, Kant argues that in the state of nature these rights are only “provisional” (MPJ 6:256). In this, Kant is partly following Rousseau. In contrast to Locke, Rousseau argues that rights are created by the social contract, and, in a sense, relative to it. My possessions become my property, so far as you and I are concerned, when you and I have given each other certain reciprocal guarantees: I will keep my hands off your possessions if you will keep your hands off mine.8 Rights are not acquired by the metaphysical act of mixing one's labor with the land, but instead are constructed from the human relations among people who have made such agreements.9 Kant adopts this idea, at least as far as the executive authority (p.239) associated with a property right is concerned. I may indeed coercively enforce my rights. But if my doing so is to be consistent with the Universal Principle of Justice, it cannot be an act of unilateral coercion. To claim a right to a piece of property is to make a kind of law; for it is to lay it down that all others must refrain from using the object or land in question without my permission. But to view my claim as a law I must view it as the object of a contract between us, a contract in which we reciprocally commit ourselves to guaranteeing each other's rights. It is this fact that leads us to enter—or, more precisely, to view ourselves as already having entered—political society. In making this argument, Kant evokes Rousseau's concept of the general will. He argues that a general will to the coercive enforcement of the rights of all concerned is implicitly involved in every property claim. Now, with respect to an external and contingent possession, a unilateral Will cannot serve as a coercive law for everyone, since that would be a violation of freedom in accordance with universal laws. Therefore, only a Will binding everyone else—that is, a collective, universal (common), and powerful Will—is the kind of Will that can provide the guarantee required. The condition of being subject to general external (that is, public) legislation that is backed by power is the civil society. Accordingly, a thing can be externally yours or mine [that is, can be property] only in a civil society. (MPJ 6:256) It is because the idea of the general will to the reciprocal enforcement of rights is implicit in any claim of right that Kant argues that rights in the state of nature are only provisional. They are provisional because this general will has not yet been instituted by setting up a common authority to enforce everyone's rights. The act that institutes the general will is the social contract. Kant concludes from this argument that when the time comes to enforce your rights coercively, in the state of nature, the only legitimate way to do that is by joining in political society with those with whom you are in dispute. In fact, you enforce your right by first forcing them to join in political society with you so that the dispute can be settled by reciprocal rather than unilateral coercion: If it must be de jure possible to have an external object as one's own, then the subject must also be allowed to compel everyone else with whom he comes into conflict over the question of whether such an object is [theirs] to enter, together with [them], a society under a civil constitution. (MPJ 6:256) Suppose we are in the state of nature and we get into a dispute about rights. My goat has kids, and I take them to be mine because I was caring for the (p.240) mother goat when they were born. However, one of them escaped, and you found it wandering around apparently unowned in the state of nature, took possession of it, fed it and cared for it for many years. Now we have discovered the matter, and each of us thinks she has a right to this particular goat. Since I think I have a right, I also think I may prosecute my right by coercive action. And you think the same. So what can we do? Perhaps I have a gun and you do not, so I can simply take the goat away from you. However, there are two ways to understand my action. One is: I am using unilateral force to take the goat away from you. Such an action would be illegitimate, a use of violence which interferes with your freedom. I cannot regard my action as an enforcement of my right without acknowledging that you have rights too, which also must be enforced. So if I am to claim that what I am doing is enforcing my right, I must understand my own action differently. The other way to understand the action is that I am forcing you to enter into political society with me. That gets us to the first step; the act of enforcing my right involves the establishment of a juridical condition (rechtlicher Zustand) between us and so establishes civil society. The second step, of course, is to settle the particular dispute in question in some lawful way.

#### That means they should restrict hate speech.

Varden 10 [Helga Varden, Associate Professor of Philosophy and Associate Professor of Gender and Women's Studies @ U of Illinois, 5-22-2010, Academia.edu, <https://www.academia.edu/2006079/A_Kantian_Conception_of_Free_Speech>] AG

On the Kantian view I have been developing, hate speech and speech amounting to harassment are not outlawed because they track private wrongdoing as such, but rather because they track the state’s historical and current inability to provide some group(s) of citizens with rightful conditions of interaction. This type of public law tries to remedy the fact that some citizens have been and still are ‘more equal than others’. Hence, if the state finds that it is still unable successfully to provide conditions under which protection and empowerment of its historically oppressed, and thus vulnerable, are secured, then it is within its rightful powers to legally regulate speech and harassment to improve its ability to do so. By putting its weight behind historically oppressed and vulnerable citizens, the state seeks to overcome the problems caused by its lack of recognition in the past and its current failure to provide conditions in which its citizens interact with respect for one as free and equal. Therefore, whether or not any instance of speech actually achieves insult is inconsequential, for that is not the justification for the state’s right to outlaw it. Rather, laws regulating speech and harassment track the state’s systemic inability to provide rightful interaction for all of its citizens. Note that this argument does not, nor must it, determine which particular usages of hate speech and speech amounting to harassment should be banned. It only explains why certain kinds and circumstances of speech and harassment can and should be outlawed and why public law, rather than private law, is the proper means for doing so. Determining which types and how it should be banned is matter for public debate and reflection followed by public regulation on behalf of all citizens.

#### And, it means we have no right to seditious speech.

Varden 10 [Helga Varden, Associate Professor of Philosophy and Associate Professor of Gender and Women's Studies @ U of Illinois, 5-22-2010, Academia.edu, <https://www.academia.edu/2006079/A_Kantian_Conception_of_Free_Speech>] AG

To understand Kant’s condemnation of seditious speech, remember that Kant, as mentioned above, takes himself to have shown that justice is impossible in the state of nature or that there is no natural executive right. Since Kant considers himself to have successfully refuted any defense of the natural executive right, he takes himself also to have shown that no one has the right to stay in the state of nature. This, in turn, explains why Kant can and does consider seditious speech a public crime. The intention behind seditious speech is not merely to criticize the government or to discuss theories of government critically, say. In order to qualify as seditious, the speaker’s intention must be to encourage and support efforts to subvert the government or to instigate its violent overthrow, namely revolution. To have such a right would be to have the right to destroy the state. Since the state is the means through which right is possible, such a right would involve having the right to annihilate right (6: 320). That is, since right is impossible in the state of nature, to have a right to subversion would be to have the right to replace right with might. Since the state is the only means through which right can replace might, the state outlaws it. And since it is a crime that “endanger[s] the commonwealth” rather than citizens qua private citizens, it is a public crime (6: 331)